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Hon. Magalie Roman Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

VIA E-FILING AND U.S. MAIL December 20, 2002

Re: Standardization of Small Generator Interconnection Agreements and Procedures, Docket No. RM02-12 (Advance Notice of Proposed Rulemaking)

Dear Ms. Salas:

Please file the attached Comments of the Commonwealth of Massachusetts Department of Telecommunications and Energy regarding the above-captioned matter.

Thank you for your assistance.

Sincerely,

Paul G. Afonso
General Counsel

William H. Stevens, Jr.
Counsel

Enclosure

MEMORANDUM

TO: Mary Cottrell, Secretary

FROM: William H. Stevens, Jr., Hearing Officer

RE: DTE Comments Filed with the Federal Energy Regulatory Authority on December 20, 2002, in FERC Docket No. RM02-12-00

DATE: December 24, 2002

CC: Distributed Generation NOI, D.T.E. 02-38 Distribution List (w/out attachment)
Staff as Assigned

ATT: December 20, 2002 Department Comments to the FERC

On December 20, 2002, the Department of Telecommunications and Energy filed comments with the Federal Energy Regulatory Authority in the proceeding, Standardization of Small Generator Interconnection Agreements and Procedures Advance Notice of Proposed Rulemaking, Docket No. RM02-12-00. These comments will be posted on the Department's website, http://www.mass.gov/dpu, in Distributed Generation NOI, D.T.E. 02-38.

United States of America
Before The
Federal Energy Regulatory Commission

Standardization of Small Generator Interconnection Agreements and Procedures, Advance Notice of Proposed Rulemaking	Docket No. RM02-12-000

INITIAL COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

I. CORRESPONDENCE AND COMMUNICATIONS

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II. EXECUTIVE SUMMARY

The Commonwealth of Massachusetts Department of Telecommunications and Energy ("MA DTE") respectfully submits its initial comments regarding Standardization of Small Generator Interconnection Agreements and Procedures Advance Notice of Proposed Rulemaking, Docket No. RM02-12-000 (August 16, 2002) ("ANOPR"). The MA DTE is the public utility ratemaking commission of the Commonwealth of Massachusetts. The MA DTE is responsible for setting rates for electric company distribution service and the collection of Federal Energy Regulatory Commission ("Commission") approved transmission tariffs. In addition, the MA DTE has general supervisory oversight of the operation of the electric companies in the Commonwealth of Massachusetts, including both transmission planning and siting.

The MA DTE supports the effort of the Commission to facilitate generators connecting into both local distribution company and transmission company systems. These initial comments outline the MA DTE's current investigation into interconnection standards and procedures for distributed generation, and delineate the MA DTE's concerns with respect to the interconnection of Qualifying Facilities ("QF") and other generators with facilities primarily used in distribution of retail service.

The MA DTE begins this discussion by drawing an important distinction, i.e., the MA DTE does not contend that wholesale sales in interstate commerce on distribution facilities are jurisdictional to the MA DTE, but that such sales are not sufficient to transform facilities that have traditionally been under state jurisdictions into Commission-jurisdictional facilities. The MA DTE supports the Commission's goal of eliminating discriminatory practices, and recognizes that any interconnection standards must be consistent with this goal. The MA DTE's concerns are raised in the overall context of the safety and reliability of the distribution system. As such, continued MA DTE jurisdiction of facilities used in local distribution must be allowed.

Prior to the issuance of the ANOPR, the MA DTE opened an investigation into distributed generation that, among other things, resulted in the formation of a collaborative of stakeholders to propose uniform state-wide interconnection standards and procedures for generators interconnecting with distribution systems. The MA DTE may file this proposal with the Commission at an appropriate phase in this proceeding. The MA DTE contends that this approach could serve as a model for the development of interconnection standards on local distribution facilities primarily used in distributed retail electric service.

Pursuant to Massachusetts laws and the Public Utility Regulatory Policy Act of 1978

("PURPA"), the MA DTE has exercised jurisdiction over the interconnection approval process with respect to QFs, renewable energy facilities, and other generators interconnecting with electric distribution facilities. The MA DTE requests that a final Commission rule on small generators state that it would not conflict with the MA DTE's authority with respect to the interconnection of QFs and other generators that interconnect with distribution facilities.

The MA DTE is also investigating the appropriate method for the calculation of standby or back-up rates and other charges associated with installations of distributed generation. Further, the MA DTE is required to determine an exit fee if a certain number of customers leave the distribution system due to the installation of on-site generation equipment, renewable energy technologies, or fuel cells. M.G.L. c. 164, § 1G(g). The MA DTE is concerned that should the Commission assert jurisdiction over generators that interconnect with the distribution system, some distribution facilities might be subject to the jurisdiction of the Commission, while other distribution facilities may be subject to jurisdiction of the state. This may result in regulatory uncertainty. The MA DTE requests that the Commission make certain that any final interconnection agreements and procedures would not conflict with the MA DTE's duty to: (1) ascertain the appropriate stand-by rates for generators interconnected to distribution facilities; and (2) establish an exit fee.

Commission jurisdiction over distribution facilities could also lead to regulatory uncertainty with respect to the MA DTE's duty to ensure a reliable energy supply to Massachusetts. Distribution company customers have benefitted from comprehensive distribution system planning requirements, service quality standards, outage investigations, and an electronic outage reporting system. The benefits of these programs may be diminished should the Commission expand its jurisdiction to include distribution facilities.

Finally, the MA DTE proposes some changes to certain sections of the interconnection agreements and procedures consistent with these initial comments.

III. MA DTE COMMENTS

A. The MA DTE Is Concerned that the Commission's Proposal Could Result in Regulatory Uncertainty.

The ANOPR requests comment upon two classes of generators, those from 0-2 megawatts ("MW") ("Small Generators"), and generators over 2 MW up to and including 20 MW ("Small Resources"). With respect to Small Generators, the Commission requests comment on the following: (1) Expedited Interconnection Procedures - Small Generators (up to and including 2MW) ("Small Gen IP"); and (2) Standard Agreement for Interconnection and Parallel Operation of Small Generation Systems (Pre-certified systems up to and including 2 MW) ("Small Gen IA"). With respect to Small Resources, the Commission requests comment upon: (1) "Small Resource Interconnection Procedures Draft Open Access Transmission Tariff Provisions" for new generation resources over 2 MW up to and including 20 MW ("Small Resource IP"); (2) Small Resource Interconnection Agreement ("Small Resource IA"); and (3) "Specifications for Interconnection Service Agreement" ("Small Resource Specifications").

These initial comments concern the Commission's proposal that the ANOPR will apply "when a generator interconnects to the Transmission Provider's transmission system or makes wholesale sales in interstate commerce at either the transmission or distribution voltage level." Standardization of Generator Interconnection Agreements and Procedures Notice of Proposed Rulemaking, Docket No. RM02-1-000, at 14-15 (April 24, 2002). The MA DTE is further concerned about the Commission's statement that "dual purpose facilities, i.e., those used both

for transmission or wholesale sales and for local distribution, would fall under [the Commission's] jurisdiction." Electricity Market Design and Structure Notice of Proposed Rulemaking, Docket No. RM01-12-000, at ¶ 366 (October 2, 2002). Thus, it appears that the ANOPR, in conjunction with the dual-purpose doctrine, may extend the Commission's jurisdiction to include distribution facilities. This may result in a patchwork of federal and state jurisdiction that could create regulatory uncertainty.

B. In Massachusetts, Distribution Companies and Interested Stakeholders Are Developing Standardized Interconnection Agreements and Procedures for Generators Connecting to the Distribution System.

Prior to the issuance of the ANOPR, the MA DTE opened its own investigation into distributed generation.[1] Investigation RE: Distributed Generation, D.T.E. 02-38 (June 13, 2002). The MA DTE identified three issues for the initial phase of its investigation: (1) the development of interconnection standards and practices that do not threaten the reliability or safety of existing distribution systems, but also do not present undue barriers to the installation of distributed generation; (2) the appropriate method for the calculation of standby or back-up rates and other charges associated with the installation of distributed generation; and (3) the appropriate role of distributed generation in distribution company resource planning. Id. at 2. In response to initial comments in this proceeding, the MA DTE established a collaborative of local distribution companies and stakeholders ("Collaborative") to develop uniform interconnection standards, policies, and procedures with respect to distributed generation. Following MA DTE review of the Collaborative's proposal, the MA DTE may file this

[1] Distributed generation is "a generation facility or renewable energy facility connected directly to distribution facilities or to retail customer facilities which alleviate or avoid transmission or distribution constraints or the installation of new transmission facilities or distribution facilities." M. G. L. c. 164, § 1.

proposal with the Commission at an appropriate phase in this proceeding.

C. Pursuant to Federal and State Statutes and Regulations, the MA DTE Has Exercised Jurisdiction Over the Interconnection of QFs and On-Site Generators to the Distribution System.

1. The MA DTE Traditionally has Exercised Jurisdiction Over the Interconnection Process with QFs and On-Site Generators.

The validity, interpretation and performance of the agreements and procedures in the ANOPR "shall be governed by the laws of the state where the Point of Interconnection is located, without regard to that state's conflicts of laws principles." Standardization of Generator Interconnection Agreements and Procedures Notice of Proposed Rulemaking, Docket No. RM02-1-000, at 34 (April 24, 2002). Pursuant to M.G.L. c. 164 and PURPA, the MA DTE has traditionally exercised jurisdiction over the interconnection approval process with respect to QFs, Small Generators and Small Resources interconnecting with electric distribution companies. States have developed considerable expertise in this area. The MA DTE is also responsible for ensuring a safe and reliable distribution system, and has jurisdiction to determine appropriate cost recovery for distribution companies to recover costs related to interconnections, system upgrades, management, and operation and maintenance. M.G.L. c. 164, §§ 69H, 69I, 94. Safety and reliability of distribution facilities is a paramount concern to the MA DTE.

In 1997, the General Court of the Commonwealth of Massachusetts enacted Chapter 164 of the Acts of 1997, entitled, "An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein" ("Restructuring Act"). The Restructuring Act gave the MA DTE further responsibilities over the interconnection of

generators to regulated distribution companies. These responsibilities concern technical and cost issues related to Small Generators and Small Resources (e.g., QFs, on-site generation, distributed generation, renewable energy), and their effect on distribution company operations.

2. The MA DTE Amended its QF Regulations to Be Consistent with the Restructuring Act.

In 1999, the MA DTE amended its QF regulations to conform with changes brought about by the Restructuring Act. QF and On-Site Generating Facility Rulemaking, D.T.E. 99-38 (Rulemaking amending 220 C.M.R. §§ 8.00 et seq. (1999)) ("MA DTE QF Regulations").[2] The amended regulations delineated the technical and cost obligations that arise when a distribution company is requested to interconnect with a QF or an On-Site Generating Facility ("On-Site Generating Facility").[3] Technical and cost obligations have been delineated in the past with respect to QFs; On-Site Generating Facilities have been specifically referenced since the date of the Restructuring Act.

The MA DTE QF Regulations also provided for a dispute resolution process applicable to both QFs and On-Site Generating Facilities. 220 C.M.R. § 8.08(2). Consistent with this provision, the MA DTE proposes below an amendment to the Small Gen IP that provides for states to resolve disputes between distribution companies and generators that interconnect at the

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[2] The MA DTE QF Regulations among other things, established regulations: (a) for the interconnection of QFs and on-site generating facilities to distribution company systems; (b) for the metering of QFs and on-site generating facilities; and (c) regarding payment to QFs and on-site generating facilities. The MA DTE QF Regulations implement the provisions of the PURPA, and Commission regulations. 220 C.M.R.§ 8.01(1).

[3] On-Site Generating Facilities are a class of generating facilities defined in the Restructuring Act as 60 KW or below and are eligible for net metering. G.L. c. 164, § 1G(g)(iii). An On-Site Generating Facility is any plant or equipment that is used to produce, manufacture, or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 KW or less. 220 C.M.R. § 8.02.

distribution level.

The Restructuring Act also required that retail electric suppliers meet, beginning in 2003, a renewable energy portfolio standard and statutorily set amounts of renewable sales.[4] M.G.L. c. 25A § 11F. Renewable resources that interconnect with distribution systems are also eligible to be QFs, and pursuant to Commission regulations, states have authority to establish interconnection standards, resolve disputes, and determine the level of costs for interconnection of QFs. 18 C.F.R. Part 292 §§ 204, 306, 308. Many of these renewable resources are likely to interconnect only with MA DTE-regulated distribution companies and for the purposes of this ANOPR, would be classified as either Small Generators or Small Resources.

The MA DTE requests that the final Commission rule on Small Generators and Small Resources state that it would not conflict with the MA DTE's authority with respect to issues related to the interconnection of QFs, Small Generators, and Small Resources to distribution facilities.

D. Since the MA DTE is Authorized to Approve Distribution Company Stand-by Tariffs and Determine Exit Fees, a Distribution Facility Must Continue to be Under MA DTE Jurisdiction.

Customers that install generation that interconnects with distribution companies often rely on back-up or stand-by service provided by the distribution company. In addition to charging customers for their metered electric consumption, a distribution company may seek to recover costs related to the stand-by services it provides. The MA DTE is currently

[4] The Restructuring Act also established a mandatory charge per kilowatt-hour to support the development and promotion of renewable energy projects, and established the Massachusetts Renewable Energy Trust fund to fund a "series of initiatives which exploits the advantages of renewable energy." M.G.L. c. 25, § 19; M.G.L. c. 40J,§ 4E.

investigating the appropriate method for the calculation of stand-by or back-up rates and other charges associated with the installation of distributed generation. Investigation RE: Distributed Generation, D.T.E. 02-38 (2002). The MA DTE is concerned that, under the Commission's proposal, some distribution facilities may be subject to the jurisdiction of the Commission, while other distribution facilities may be subject to the jurisdiction of the state. This could result in regulatory uncertainty between state and federal policies.

The Restructuring Act requires that the MA DTE determine an exit fee for distribution company customers if two or more customers, who provided more than ten percent of the distribution company's gross revenues, leave the distribution system due to installation of "on-site generation equipment, renewable energy technologies, or fuel cells." M.G.L. c. 164, §1G(g). The installation of distributed generation could trigger this provision. The MA DTE is concerned that should the Commission have exclusive jurisdiction over some or all of the distribution facilities that interconnect with Small Generators and Small Resources, it may create regulatory uncertainty as to the MA DTE's authority to determine exit fees. The MA DTE requests that the Commission make certain that any final agreements and procedures would not conflict with the MA DTE's duty to: (1) ascertain the appropriate stand-by rates for generators interconnected to distribution facilities; and (2) establish an exit fee.

E. Commission Jurisdiction Over Distribution Facilities May Cause Regulatory Uncertainty With Respect to the MA DTE's Duty to Ensure a Reliable Energy Supply to Massachusetts.

1. The MA DTE is Responsible to Assess Distribution-Related Reliability Issues.

The MA DTE is required to report annually to the General Court of the Commonwealth of Massachusetts "on the reliability and diversity of electric power." M.G.L. c. 164, § 69I;

see Order Commencing a Notice of Inquiry and Rulemaking into: (1) rescinding 220 C.M.R. §§ 10.00 et seq. and (2) exempting electric companies from any or all of the provisions of G.L. c. 164, § 69I , D.T.E. 98-84 (1998). The MA DTE is concerned that Commission jurisdiction over distribution facilities, presently under MA DTE jurisdiction, may cause regulatory uncertainty as to the MA DTE's obligation for ensuring a reliable electric supply to Massachusetts residents, and possibly deprive its residents of important benefits.

Over the past several years, Massachusetts' distribution customers have enjoyed benefits derived from (1) comprehensive distribution planning requirements;[5] (2) service quality standards that measure the actual performance of distribution companies; (3) investigations, undertaken by the MA DTE, when unusual outage conditions occur; and (4) an electronic reporting system that captures distribution outage information in real time. Electric Distribution Service Quality, D.T.E. 01-65/66/67/68, (2001); Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84 (2001); Massachusetts Electric Company Service Quality in the City of Medford, D.T.E. 02-41 (2002); Outage Reporting Protocol, August 24, 2001. The ANOPR offers no federal counterparts to the Massachusetts programs noted here. Accordingly, the benefits of Massachusetts' distribution programs may be lost to Massachusetts retail customers taking service from distribution facilities that the Commission designates as federally-jurisdictional, such as dual-purpose facilities.

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[5] As noted above, the MA DTE considers distributed generation to be an important element of distribution system reliability and planning because it would reduce distribution load and demand on the transmission system, and may defer the need for distribution system upgrades. Distributed Generation, D.T.E. 02-38 (2002).

2. The MA DTE Has Developed Considerable Expertise in Oversight of Distribution Facilities.

Beginning in 2001, the MA DTE instituted formal requirements pertaining to distribution company planning, load forecasting, and circuits prone to repeated outage, in order to ensure distribution system reliability and quality of service. Electric Distribution Service Quality, D.T.E. 01-65/66/67/68, (2001). The MA DTE later issued rulings applicable to individual distribution companies requiring improvements in reliability and quality of service with respect to distribution company planning, operations, and load forecasts. NSTAR Electric Company, D.T.E. 01-65, at 24 (2002); Massachusetts Electric Company and Nantucket Electric Company, D.T.E. 01-68, at 17 (2002). The MA DTE continues to monitor distribution company compliance with these requirements through a combination of quarterly and annual reports prepared by the distribution companies.

Historically, distribution system planning has been presented to the MA DTE on a unified basis. That is, there has been a coherence between the facilities, the planning and operations mechanisms, the responsibility to oversee the adequacy of such mechanisms, and the authority to set rates. Distribution facilities operated on an integrated basis not only functionally, but institutionally. The resultant processes, including planning, enabled the MA DTE to address the relevant issues on a *system-wide* basis. The MA DTE believes that appreciable public benefits have resulted from this coherent institutional arrangement and is concerned that Commission jurisdiction over certain distribution facilities may balkanize the distribution system creating regulatory uncertainty.

Beginning in 1999, the MA DTE sought to develop a method for measuring the actual performance of distribution companies. Service Quality Standards for Electric Distribution

Companies and Local Gas Distribution Companies, D.T.E. 99-84 (1999). The MA DTE's inquiry into these issues was taken as a step towards implementation of a performance-based regulation pursuant to M. G. L. c. 164, § 1E(a)-(c). The MA DTE's performance measurement effort culminated in 2001 with the selection of eight service quality performance measures applicable to distribution companies. Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84 (2001).[6] The most important service quality measures, in terms of their percentage weights, were those associated with distribution outages. Id. at 33. The MA DTE continues to review the actual performance of distribution companies through analyses of data submitted annually by these companies. NSTAR Electric Company, D.T.E. 01-71A (2002); Massachusetts Electric Company and Nantucket Electric Company, D.T.E. 01-71B (2002).

The Commission's jurisdictional proposal over "dual purpose facilities" and generators that interconnect at the distribution voltage level may cause regulatory uncertainty with respect to the MA DTE's service quality measurement process. Electricity Market Design and Structure Notice of Proposed Rulemaking, Docket No. RM01-12-000 at ¶ 366 (October 2, 2002). Certain distribution facilities might be removed from a company's data base, disrupting historical benchmark calculations as well as future-year accountability for the performance of such facilities. Moreover, distribution customers taking service from affected facilities might no longer receive the benefits provided by Massachusetts' service quality standards.

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[6] The eight performance measures are as follows: (1) System Average Interruption Duration Index; (2) System Average Interruption Frequency Index; (3) Lost Work-Time Accident Rate; (4) Telephone Answering Rate; (5) Service Appointments Met; (6) On-Cycle Meter Readings; (7) Consumer Division Cases; and (8) Billing Adjustments. Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84, Attachment 1 (2001).

F. Response to a Wholesale Price is not Tantamount to Wholesale Activity

The Commission has indicated that interconnection is jurisdictional to the Commission when a generator participates in a Commission-regulated market. ANOPR at 2-3; Standardization of Generator Interconnection Agreements and Procedures Notice of Proposed Rulemaking, Docket No. RM02-1-000, at 15, n. 22 (April 24, 2002). However, that jurisdictional arrangement might be applied in a manner that may have unintended consequences. For example, a customer may decide to install a small generator on a network segment of a distribution system. The customer may be required to install a unidirectional relay to prevent any degradation of service on that segment of the distribution network. For purposes of this example, the customer's load is 2.0 MW and the design rating of their small generator is 1.0 MW. The customer decides to participate in a load response program, such as that administered by the ISO-New England, which is a Commission-regulated activity. Under the ANOPR method, because the customer decided to participate in a regional load response program, that customer's interconnection would appear to be jurisdictional to the Commission. This may be the result even though all of the physical electrical activity, i.e., the load reduction, took place on the customer's side of the meter. None of this customer's power entered either the distribution or transmission system. This customer introduced no commodity into interstate commerce. Instead, the customer simply agreed to adjust consumption in response to a price signal.[7] The MA DTE requests clarification that a small generator whose power does not flow into interstate commerce is not a participant in a Commission-regulated market even if that small generator responds to a price signal that is

[7] A similar situation would arise when a customer with a small generator and a unidirectional relay decides to bid an increment of load reduction into a regional spot market.

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IV. PROPOSED AMENDMENTS TO THE PROCEDURES AND APPLICATION

A. Proposed Definitions

As an initial matter, the MA DTE proposes some additional definitions that would apply to the Small Gen IP, Small Gen IA, Small Resource IP, Small Resource IA, and Small Resource Specifications. The MA DTE's proposed amendments are highlighted and underlined and any language the MA DTE suggests deleting is in ~~strikeout~~. The proposed definitions are as follows:

"Small Generator" means a generator with a capacity up to and including 2 MW.
"Small Resource" means a generator with a capacity greater than 2 MW but less than 20 MW.
"Qualifying Facilities" or "QFs" means the class of generating facilities established by the Public Utility Regulatory Policies Act of 1978 and regulations promulgated by the Federal Energy Regulatory Commission ("FERC").
"Distribution Company" means a company engaging in the distribution of electricity or owning, operating, or controlling distribution facilities.

In Massachusetts, a "distribution facility" is defined as "plant or equipment used for the distribution of electricity and which is not a transmission facility, congeneration facility, or a small power production facility." M.G.L. c. 164, § 1.

B. Small Gen IP

The MA DTE supports the implementation of "no grid impact" criteria that would provide for and result in an expedited interconnection process that may be used at the state and federal level. However, the threshold for the determining of the presumption of "no grid impact" makes no distinction between the distribution system and transmission system. The MA DTE believes that generating units meeting the Commission's "no grid impact" criteria are more likely to be interconnected at the distribution system level, in light of the criteria's

size limit and for economic reasons. The MA DTE reserves comments regarding the criteria's values for specified thresholds until a later phase of this proceeding.

The Small Gen IP does not expressly mention connection with a local distribution company. Distributed generation may be an important component in the distribution companies' system planning for distribution reliability. As noted earlier, the MA DTE requests that the Commission recognize in its proposed rule that any interconnection standards and procedures for generation facilities or renewable energy facilities connected directly to distribution facilities remain under state jurisdiction. Accordingly, the MA DTE proposes amending the Small Gen IP at ¶ 1, "Application and Definitions." In the Small Gen IP, at ¶ 1. Application and Definitions, subsection a., amend the first sentence to read as follows:

> This expedited interconnection procedure is available for Small Generators or Qualifying Facilities up to and including 2 MW in size that will interconnect to a Distribution Company~~, participate in a FERC regulated market, sell power for resale in interstate commerce or are interconnected to a FERC regulated transmission line~~ or transmission system.

Amend the last sentence of Small Gen IP at ¶ 1.a. to read:

> Small Generators or Qualifying Facilities meeting these standards are entitled to a presumption of approval of the interconnection without additional testing, fees, or other requirements imposed by the interconnecting Transmission Provider or any ~~Affected System utility.~~ Distribution Company.

The MA DTE proposes an addition to ¶ 1. "Application and Definitions" section of the Small Gen IP. In order to ensure that any Small Generators that connect to any distribution company over which a state has ratemaking authority will be on notice that the Small Generator will be subject to that states' jurisdiction, the MA DTE also proposes inserting a

new subsection c.[8] that states:

> c. The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State where the Point of Interconnection is located, without regard to its conflicts of law principles.

The MA DTE proposes a third amendment to ¶ 6 of the Small Gen IP "Disputes." As noted earlier, the MA DTE exercises jurisdiction over distribution companies and has responsibility to ensure the safety and reliability of a distribution company system. The MA DTE also has the authority to resolve disputes between QFs, On-Site Generators, and distribution companies. Further, the ANOPR proposal for dispute resolution at the Commission level may have a significant negative economic impact on a substantial number of QFs, Small Generators and Small Resources. The intent of this amendment is to ensure the continued authority of the MA DTE over dispute resolution and to keep costs down for QFs, Small Generators and Small Resources.[9] Accordingly, the MA DTE recommends adding the following language at the beginning of ¶ 6 of the Small Gen IP:

> If, at any time, a Qualifying Facility, Small Generator or Small Resource that is connecting with a Distribution Company's system has a dispute with the Distribution Company, the Qualifying Facility, Small Generator, Small Resource, or Distribution Company shall follow dispute resolution procedures established by the state authority.

C. Small Gen IA

Consistent with the above comment, the MA DTE proposes that the Small Gen IA be modified. For every reference to "Transmission Provider" add or Distribution Company.

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[8] Although this proposed language is modeled upon identical language in the Small Gen IA at ¶ 9, including this language in the Small Gen IP would clarify the responsibilities for both Small Generators and distribution companies.

[9] The MA DTE notes that the Collaborative is proposing a dispute resolution process at the state level to resolve disputes between distributed generators and distribution companies.

This distinction would direct Small Generators to contact the distribution company it is connecting with in order for the distribution company to ensure distribution system safety, reliability, and the proper allocation of costs between the Small Generator and the distribution company.

D. Small Resource IP, Small Resource IA, and Small Resource Specifications

For every reference to the term "Transmission Owner" in the Small Resource IP, Small Resource IA, and Small Resource Specifications, add the term or Distribution Company. This distinction would direct Small Resources to contact the distribution company it is connecting with in order for the distribution company to ensure distribution system safety, reliability, and the proper allocation of costs between the Small Resource and distribution company.

This concludes the MA DTE's initial comments. The MA DTE appreciates the opportunity to participate in this proceeding.

Respectfully submitted,

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS
AND ENERGY

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